

Message Text

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1. TORONTO GLOBE AND MAIL OF JANUARY 13 CARRIES ON
EDITORIAL PAGE FOLLOWING ARTICLE ENTITLED "DON'T TELL
THE COURT" BY GEOFFREY STEVENS:

QUOTE. CANADA AND THE UNITED STATES HAVE REACHHED AN
ACCOMMODATION ON ONE OF THE MOST NETTLESOME ISSUES IN
RELATIONS BETWEEN THE TWO COUNTRIES--BUT NEITHER OTTAWA
NOR WASHINGTON WILL ANNOUNCE IT.

AT ITS LAST MEETING BEFORE CHRIASTMAS, THE TRUDEAU CABINET
DECIDED ON A MORATORIUM ON THE RANDOM DELETION OF
COMMERCIALS FROM U.S. BORDER TELEVISION PROGRAMS
CARRIED ON CANADIAN CABLE SYSTEMS. IN LATE DECEMBER,
EXTERNAL AFFAIRS MINISTER DONALD JAMIESON WROTE TO
SECRETARY OF STATE HENRY KISSINGER TO INFORM HIM OF
THE CABINET DECISION AND TO ADVISE HIM THAT THE
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MORATORIUM WILL REMAIN IN EFFECT UNTIL OTTAWA HAS A
CHANCE TO ASSESS THE IMPACTOF THE BORADCASTING
PROVISIONS OF BILL C-58 ON THE ADVERTISING REVENUES
OF CANADIAN BROADCASTERS. (THIS LEGIALATION ELIMINATED
INCOME TAX DEDUCTIONS FOR CANADIAN ADVERTISERS
PLACING COMMERCIALS, AIMED AT THE CANADIAN MARKET, ON
BORDER STATIONS IN THE UNITED STATES.) MR. KISSINGER

HAS REAPPLIED TO MR. JAMIESON'S LETTER.

AT THE END OF DECEMBER, THE CABINET DECISION WAS CONVEYED TO THE CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION WHICH HAD ORIGINATED AND IMPLEMENTED THE COMMERCIAL DELETION POLICY. THE CABINET, HOWEVER, CANNOT ORDER THE CRTC TO IMPOSE THE MORATORIUM. SO, THE CABINET DECISION HAD TO BE COUCHED AS A REQUEST OR RECOMMENDATION. THE FULL COMMISSION WILL NOT MEET TO CONSIDER THE REQUEST UNTIL AFTER JANUARY 26.

THE U.S. STATE DEPARTMENT SAID YESTERDAY IT COULD NOT RELEASE THE JAMIESON-KISSINGER LETTERS BECAUSE THEY CONCERN CANADIAN, NOT AMERICAN, POLICY. IN OTTAWA, EXTERNAL AFFAIRS WOULD NOT RELEASE THE LETTERS NOR COMMENT ON COMMERCIAL DELETION. NOT, A SPOKESMAN SAID, UNTIL AFTER JANUARY 26.

WHAT'S SO SPECIAL ABOUT JANUARY 26? AHA. THAT'S THE DATE ON WHICH THE SUPREME COURT OF CANADA IS TO HEAR AN APPEAL FROM THREE BUFFALO TELEVISION STATIONS CHALLENGING THE RIGHT OR JURISDICTION OF THE CRTC TO ORDER CABLE SYSTEMS TO DELETE U.S. COMMERCIALS. THE CASE HAS CONSIDERABLE CONSTITUTIONAL SIGNIFICANCE WITHIN CANADA--ENOUGH THAT SEVERAL PROVINCES (FIVE AT LAST COUNT) HAVE INTERVENED IN SUPPORT OF BUFFALO. IN OTHER WORDS, THE SUPREME COURT IS BEING ASKED TO UPHOLD THE CONSTITUTIONALITY OF A POWER EXERCISED BY A FEDERAL REGULATORY AGENCY--WITHOUT BEING TOLD THAT THE UNCLASSIFIED

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GOVERNMENT HAS DECIDED THE AGENCY SHOULD STOP EXERCISING THE POWER FOR THE TIME BEING, AND WITHOUT KNOWING FOR THAT MATTER, WHETHER THE AGENCY WILL STOP OR CONTINUE. ONE CAN ONLY SPECULATE ON THE REASONS FOR OTTAWA'S RELUCTANCE TO HAVE IT KNOWN THAT IT HAS REACHED AN ACCOMMODATION WITH WASHINGTON. ONE REASON COULD BE FEAR THAT IT WOULD WEAKEN THE FEDERAL CASE AT THE SUPREME COURT. ANOTHER COULD BE CONCERN THAT THE COURT WOULD REFUSE TO HEAR THE BUFFALO APPEAL AFTER ALL, ON THE GROUND THAT IT IS MOOT OR ACADEMIC. THE COURT DOES NOT ENTERTAIN HYPOTHETICAL QUESTIONS.

IN THE PAST 2 1/2 YEARS, BROADCASTERS IN THREE CITIES--CALGARY, EDMONTON AND TORONTO--HAVE REACHED AGREEMENTS WITH CABLE SYSTEMS TO DELETE COMMERCIALS FROM U.S. SIGNALS (IN METROPOLITAN TORONTO, ONLY ROGERS CABLE TV, WHICH ACCOUNTS FOR ABOUT 10 PERCENT OF THE CABLE SUBSCRIBERS, IS INVOLVED). IN EACH CASE, ROUGHLY 10 PERCENT OF PRIME-TIME COMMERCIALS ARE REPLACED BY

PUBLIC SERVICE MESSAGES OR SLIDES WITH MUSIC.

IT'S LIKE GUERRILLA WARFARE. THE U.S. BORDER STATIONS DON'T KNOW WHICH COMMERCIALS ARE GOING TO BE DELETED. SO THEY CAN'T GUARANTEE THEIR CANADIAN ADVERTISERS A CANADIAN AUDIENCE. THE TACTIC WAS SO SUCCESSFUL IN ALBERTA THAT A SPOKANE TELEVISION STATION CLOSED ITS CALGARY SALES OFFICE A FEW WEEKS AFTER RANDOM DELETION BEGAN. THE MORATORIUM AGREED TO BETWEEN CANADA AND THE UNITED STATES WOULD NOT DIRECTLY AFFECT THE COMMERCIAL DELETION ALREADY GOING ON IN CALGARY, EDMONTON AND TORONTO. THIS COULD CONTINUE, BUT, ASSUMING THE CRTC DECIDES TO GO ALONG, THE PRACTICE COULD NOT BE EXTENDED TO OTHER CENTRES OR TO OTHER CABLE SYSTEMS AND COULD NOT--AS THE CRTC PLANS--BE LAID DOWN AS A CONDITION OF CABLE LICENCE RENEWAL. THE MORATORIUM, HOWEVER, IS MORE THAN A FREEZING OF THE STATUS QUO. IT IS SEEN AS A FACE-SAVING DEVICE, A SIGNAL

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TO THE UNITED STATES THAT THE CANADIAN GOVERNMENT IS PREPARED TO BACK DOWN, TO ABANDON COMMERCIAL DELETION ENTIRELY. ASSUMING THE SUPREME COURT UPHOLDS THE FEDERAL AUTHORITY, THE PRACTICE WILL PROBABLY BE QUIETLY DROPPED IN THE THREE CITIES WHERE IT IS EMPLOYED.

BUT SHOULDN'T SOMEONE LET THE NINE GENTLEMEN OF THE SUPREME COURT OF CANADA IN ON THE MANOEUVRING (SIC) THAT IS GOING ON? UNQUOTE ENDERS

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